

Amendments to the Drawing Figures:

The attached two (2) drawing sheets include proposed changes to FIGs. 1-4 and replace the original three (3) sheets including FIGs. 1-4

Attachment: Replacement Sheet(s)

REMARKS / DISCUSSION OF ISSUES

Claims 1-11 and 15-23 are pending in the application. Claims 12-14 are canceled herein, and claims 17-23 are newly added.

Claims are amended for non-statutory reasons, to correct one or more informalities, remove figure label number(s), and/or to replace European claim phraseology with U.S. claim language having the same meaning.

Claim 1 is amended to restore the claim to its original scope. Because the applicants' prior amendment and associated remarks had no effect on the determination of the patentability of the claims, the applicants herein recant any and all prior remarks.

In like manner, claims 12 and 13 are replaced by claims 17 and 18, respectively, with the intent of providing these claims the original scope of claims 12 and 13. In the prior Office action, claims 12 and 13 were rejected under 35 U.S.C. 101 for claiming a computer program. The Office action cited MPEP 2106.IV.B.1.a to support this rejection, stating that a computer program, per se, is non-statutory subject matter. The applicants note that MPEP 2106.IV.B.1 states:

"computer programs **claimed as computer listings *per se***, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed... In contrast, ... structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized ... is thus statutory." (Bold emphasis added.)

Claims 17 and 18 do not claim a computer listing per se; rather, they define a program that is configured to permit the computer program's functionality to be realized, and thus constitute statutory subject matter, per MPEP 2106.

The Office action objects to the drawings. Replacement drawings are enclosed.

The Office action rejects claims 1-11 and 15-16 under 35 U.S.C. 103(a) over Woodward (USPA 20030028721) and Kawamura et al. (USP 6,424,614, hereinafter Kawamura). The applicants respectfully traverse this rejection.

The Examiner's attention is requested to MPEP 2142, wherein it is stated:

"To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) *must teach or suggest all the claim limitations*... If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness."

Claim 1, upon which claims 2-7 and 15-16 depend, claims a method of generating an identification data block wherein a first part identification block is formed from track start position information and a second part identification block is formed from a total for the number of tracks on the data carrier, wherein an XOR gating function is used to form the first part identification block from the start position information, and an XOR gating operation is then likewise used to form the identification data block from the first and second part identification blocks.

Claim 8, upon which claims 9-11 depend, claims an arrangement for generating an identification data block that includes first generating means for generating a first part identification block from track start position information by means of an XOR gating operation, second generating means for generating a second part identification block from a total for the number of tracks on the data carrier, and gating means that are arranged to generate the identification data block from the first and second parts by means of an XOR function.

Neither Woodward nor Kawamura teaches or suggests an XOR gating function being used to form a first part identification block from start position information, and neither Woodward nor Kawamura teaches or suggests an XOR gating operation being used to form an identification data block from first and second part identification blocks.

Woodward defines a first identifier based on the lengths of the tracks, and a second identifier based on the number of tracks of different length. With regard to the first identifier, Woodward teaches that this identifier is created based on the relative sizes of adjacent tracks (a "1" signifying that the current track is larger than the prior track, and a "0" signifying that the current track is not larger than the prior track).

Woodward's first identifier is not based on the start locations of each track, is not based on a combination of these locations, and specifically is not based on an XOR gating function. With regard to the second identifier, Woodward teaches that this identifier is based on a total number of tracks of different length, which is not, per se, the total number of tracks.

Kawamura does not address creating identifiers of data. Kawamura teaches a technique for recording on a multi-layer disk to provide high-speed access. On a top layer, the data is recorded from the inside to the outside; on the next layer, the data is recorded from the outside to inside; on the next layer, inside to outside; and so on. In this manner, the end of the recording on one layer is at the same radial position as the beginning of the recording on the next layer, and radial re-setting of the scanning device is not required at each layer transition. Kawamura uses the conventional technique of using an XOR function to produce the twos-complement (negation) of a number, for determining the sector address of a layer that is recorded in the 'reverse' direction (outside to inside). Kawamura does not teach using the XOR function for creating a data-dependent identifier; Kawamura's sector addresses relate to the physical properties of the disk, and are unrelated to the data that may subsequently be placed on the disk.

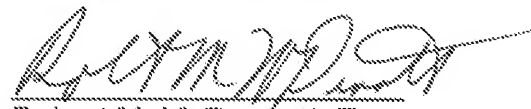
Although one might combine the teachings of Woodward and Kawamura, to provide an identification data block for data that is recorded on a multi-layer disk that is recorded in alternating radial directions, this combination will not produce the applicants' claimed invention, because neither Woodward nor Kawamura, individually or collectively, teaches or suggests creating a first identification block by applying an XOR function to the start position of tracks of data, and neither Woodward nor Kawamura, individually or collectively, teaches or suggests creating an identification data block by applying an XOR function to a first and second identification block, as specifically claimed in claim 1.

Because the combination of Woodward and Kawamura fails to teach or suggest each of the elements of the applicants' claims, the applicants respectfully maintain that the rejection of claims 1-11 and 15-16 under 35 U.S.C. 103(a) over Woodward and Kawamura is unfounded, per MPEP 2142.

The applicants note that newly added independent claims 17 and 19 include limitations similar to those discussed above.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Robert M. McDermott, Esq.
Reg. 41,508
804-493-0707

Please direct all correspondence to:

Larry Liberchuk, Esq.
US PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
Phone: (914) 333-9602
Fax: (914) 332-0615